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FRENCH "WAR-GUILT" TRIAL AT RIOM

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Memorandum No. 12

# FRENCH "WAR-GUILT" TRIAL AT RIOM

April 22, 1942



CONFIDENTIAL

# THE FRENCH "WAR-GUILT" TRIALS AT RIOM

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# THE FRENCH "WAR-GUILT" TRIAL AT RIOM

## SUMMARY

Shortly after the collapse of France in June, 1940, the government of Marshal Petain undertook to hold a trial to determine and punish those responsible for the disaster which the French nation had suffered. A new court was established for the purpose, and it carried through extended preliminary investigations before six former leaders of the Republic were brought to public trial in February, 1942. To the annoyance of the German Government the trial was confined to investigation of responsibility for France's unpreparedness for war, and it did not consider the question of "war-guilt". The French Government was disturbed by the offensive tactics of the accused, and became concerned over their possible effect upon the prestige of Marshal Petain. Probably stimulated by German protests and demands, it suspended the public hearings of the court indefinitely on April 15, 1942, and announced that the investigation would be extended to include the responsibility for taking France into the war. The principal result of the trial seems to have been to contribute to a precipitation of a crisis in French-German relations eventuating in the return of Pierre Laval to a position of power in the French Government.

Western European Section

Memorandum No. 12

# The French "War-Guilt" Trial at Riom

## 1. Origin and Purpose

There are two theories of the origin of the French "war-guilt" trial. One is that the trial really originated in Berlin, but according to the other the French authorities decided to hold the trial in response to the demands of French public opinion. On neither side is there sufficient evidence to establish one theory and exclude the other.

The hypothesis that the trial was undertaken by the French authorities on the demand of the German Government is backed both by specific evidence and by certain rational arguments based on knowledge of German aims and methods. At the opening public session of the trial in February, 1942, former premier Daladier declared that on the day following the signing of the Armistice the Germans had ordered that a trial be held to fix upon France by her own admission the responsibility for starting the war. According to an unconfirmed report in the New York Times more than a year earlier, Otto Abetz in July, 1940, informed Laval that in order to gain German confidence the French Government must immediately promulgate and execute anti-Semitic laws and bring to trial the leaders responsible for France's entry into the war. Abetz, it was said, continued to press that demand until the special "war-guilt" court was established. On the other hand Ambassador Henry-Haye declared

in October, 1940, that the German Government had no part in inspiring or instituting the trial, and the New York Times correspondent P. J. Philip wrote at about the same time that the German press and the German-controlled press of the occupied zone treated the trial as a purely French matter. Later, however, the German press and radio showed irritation over the delay in holding the trial, and the government of the Reich was certainly never indifferent to the trial and its outcome. Hitler had consistently maintained that France and Britain began the war on a peaceful Germany without sufficient reason, and this contention and the propaganda based upon it would be vastly strengthened if a French court should formally fix responsibility for the war on the former leaders of the French Government. Such an admission by the French would, furthermore, be an important advantage to the Germans in ultimate peace negotiations, for it would give them good grounds to demand reparations from France for all loss incurred in the conduct of the war. It would seem probable, therefore, that if the German Government did not openly order the holding of a war-guilt trial, it did at least tacitly encourage the French to undertake the project.

The second theory of the origins of the trial is that it was instituted by the government of Petain at the insistence of the French people. Following the defeat there was a natural and angry demand among the French to punish those who had misguided the nation and brought it to disaster. The leaders of

the new government recognized this demand, and by the trial sought to satisfy it, and at the same time and by the same means they sought to discredit further their predecessors and thereby strengthen their own position. It is also possible that in establishing the Supreme Court they hoped to provide the new state, which was at first only a government of men, with a basic national institution, which would give it the appearance of solidity. Laval, it is said, hoped that the court would take the place in the public judgment of the free institutions which had been abolished; the press backed the idea, some going so far as to declare that the court was by itself an adequate guardian of the public liberty and a satisfactory substitute for the Chamber of Deputies and the Senate. It cannot now be determined with certainty what Frenchmen were most active and influential in effecting the decision to hold the "war-guilt" trial. The first official public demand for punishment of the former leaders came from Senator Charles Reibel of the Department of Seine-et-Oise, who on July 10, 1940, proposed to the Senate a law which would require the government to apprehend and punish those responsible for the war, the lack of preparation for it, and its continuance in the face of certain defeat. The actual decision to try the former leaders was not made public, however, until July 23, 1940, after the Senate and Chamber had voted themselves out of existence. According to a telegram sent to the Department of State by Admiral Leahy on February 25, 1942,

it was said in Vichy at that time that Lucien Romier, Minister of State without portfolio and a former journalist of some distinction, had persuaded Petain to hold the trial; it is certain, at least, that he did appear to fall into disfavor when the proceedings became embarrassing to the Vichy Government. The first public announcement of the decision to try the former leaders of the Republic was made on July 24, 1940, by Adrien Marquet, Minister of the Interior, and he gave a vigorous and impassioned defense of that decision, but there is no indication of what part, if any, he had in making it.

The French Government's conception of the official aim of the "war-guilt" trial appears to have changed between the time of the establishment of the Supreme Court and the opening of the public sessions. In the first announcement of the trial the Minister of the Interior, Adrien Marquet, declared that the government intended to prosecute those responsible for France's entry into the war and said nothing of the question of inadequate preparations for war. The state's charges presented to the court at one of its initial sessions indicated that the tribunal's primary concern would be to discover and punish those guilty of taking France into war with Germany. As the preliminary inquiry progressed, however, the authorities at Vichy began to say that the court would seek to fix the responsibility for the French defeat, and not consider the problem of the war's origin. By the time the public trial was about to begin the aim had been further restricted to the determination of the causes of French unpreparedness for war in 1939-40, and the personal responsibility

for that situation. This change in purpose was little understood abroad, and the subsequent course of the trial was consequently the source of considerable surprise and consternation.

2. Establishment of the Supreme Court of Justice

The court to try the former leaders of the Republic was established by statutes adopted on July 30, 1940. On that day Marshal Petain issued Constitutional Act No. 5, which abolished the old High Court of Justice, composed of the Senate sitting as a judicial body, and established the Supreme Court of Justice. The same day the Council of Ministers adopted a law defining the new court's purpose and procedure, and it was supplemented by the decree of September 24, 1940. The function of the court, it was stated, is to judge ministers, former ministers, and their associates who failed in or betrayed their duties to the State and anyone who plotted against the security of the State. The court may judge acts committed within the preceding ten years, and there is no appeal from its decision. The membership of the court is prescribed as a president, who is de jure the President of the Criminal Section of the Court of Cassation, a vice-president, five regular members, and three alternate members. They are appointed by the Council of Ministers and are to serve for life. In December, 1941, a revision was made in the original law providing that the presiding judge be selected for a limited appointment from among all the members of the Court of Cassation.

As originally constituted in early August, 1940, the Supreme Court was composed of the following men:

President: Pierre Caous, President of the Criminal Section of the Court of Cassation;

Vice-President; Henri Lagarde, Court of Cassation;

Members: Paul Tanon, Court of Cassation;

Georges Ripert, Dean of the Faculty of Law, University of Paris;

Jean Benoist, former member of the Council of State;

Octave Herr, Admiral in the French Navy;

M. Watteau, General in the French Army.

Gustave Cassagnau, General Prosecutor in the Court of Cassation, was appointed the prosecuting attorney for the new court. On December 6, 1940, President Caous was replaced by Justice Lagarde, the Vice-President, but on January 1, 1942, Lagarde was relieved owing to ill health, and Caous was returned to his former post. The appointments were generally approved in France for it was felt that the judges were men of honor and probity who would make every effort to establish the truth justly and expeditiously.

3. Preliminary Proceedings of the Court

The Supreme Court was formally constituted in a dignified ceremony in the small town of Riom near Vichy on August 8, 1940, and a few days later it began the long preliminaries to the public trial. Although it was predicted at the time that these preliminaries would occupy only a few weeks, they were in fact to last eighteen months, months in which the court dropped from

public attention, and it was frequently declared that the trials would never be held. The court was not idle, however, during that period. On August 13, 1940, the prosecutor, M. Cassagnau, presented the state's charges to the court in these words:

> "Whereas in documents and testimony hereto annexed it would seem that in France and in other places since an undetermined date:
>
> "First, crimes and misdemeanors have been committed by Ministers, former Ministers and their immediate civil and military subordinates in exercise or on occasion of their functions, and that these have betrayed the duties of their charges by acts that concurred with the passage from a state of peace to a state of war before September 4, 1939, and by those who subsequently aggravated the consequences of the situation thus created.
>
> "Second, attempts against the security of the State and connected crimes and misdemeanors have been committed by persons whom the inquiry will have to designate in accord with acts previously presented."

On his recommendation the court appointed an examining commission of three of its members to hear witnesses and collect evidence. This commission then proceeded, in accordance with French law, to hear in secret the testimony of some 600 witnesses and to accumulate 100,000 typed pages of evidence. These proceedings were against "persons unknown", and only when conclusive evidence was obtained did the prosecutor ask for a specific indictment. The first recommendation for indictment was made on September 5, 1940, against Guy La Chambre and Pierre Cot, former Ministers of Air; Edward Daladier and Gustave Gamelin were accused two weeks later, and Leon Blum, Paul Reynaud, and Georges Mandel, on October 19. Not until April 24, 1941, however, was the final indictment requested; it was against Pierre Jacomet, former

Secretary-General of the Ministry of War. The court returned indictments against La Chambre, Cot, Daladier, Gamelin, Blum, and Jacomet, and ordered their arrest. It refused, however, to indict Reynaud and Mandel on the basis of the evidence presented, and they are now held only under administrative orders. Following the formal indictments the counsel for the accused were allowed to study the evidence and call additional witnesses, and not until the autumn of 1941 was this work completed and the date for the opening of the public trial set for January 2, 1942. The appointment of a new presiding judge on January 15, 1942 caused further delay, and it was February 19 when the trial actually opened.

The complete formal charges against the accused have not been published, but their general nature has been indicated as follows:

> Daladier was charged with failure to prepare the Army and industry for modern war, failure to consult with the Army and Parliament before entering the war, and weakness in dealing with Communists both before and after the beginning of the war.
>
> Blum was charged with disrupting production by nationalizing war industries, and emphasizing leisure over labor, failing to push the armament program sufficiently, and leaving the country in a weakened state after his incumbency.
>
> Gamelin was charged with failure to remedy deficiencies in armament and training of the Army, unwise decisions which disorganized the command during the war, and allowing the Army's morale to deteriorate disastrously.
>
> Guy La Chambre was accused of failure to build up the French Air Force in a time of national peril.

Pierre Cot was charged with limiting credits for air defense, disorganizing the Air Force, and sending airplanes to Republican Spain.

Jacomet was charged with negligence in obtaining material of war and for misrepresenting the state of French preparedness in 1939.

The only clearly indicated charge against Reynaud was that he had embezzled several million francs of public funds which were found in possession of two of his secretaries in Spain in June, 1940, but the court found the evidence inadequate for an indictment. Mandel was charged with speculation against the franc and an attempt to establish a personal rule in collusion with the British. A military court in Morocco acquitted him of the latter accusation, and the Supreme Court refused to indict him on either charge.

4. The Council of Political Justice

A confusing element was introduced into the progress of the preliminaries of the "war-guilt" trial by the creation by Marshal Petain on August 12, 1941, of the Council of Political Justice. Its sole function was to affix the responsibility for the French disaster of 1940, and it was given until October 15, 1941, to submit to the Chief of State a list of those guilty and its proposals for their punishment. Petain declared that he would then take action under Constitutional Act No. 7, which authorizes him to apply penalties ranging in severity from deprivation of political rights to detention in a fortress against high officials who have betrayed the trusts of their offices. Peretti Della Rocca, former French Ambassador in Madrid, was

appointed president of the new council, and its membership was composed of an army officer, a repatriated prisoner of war, a professor, a magistrate, and a civil servant. On October 13 Della Rocca delivered to Petain the body's recommendations based on the evidence collected by the Supreme Court. A few days later the Marshal announced the application of the maximum authorized penalty against Daladier, Blum, Gamelin, Reynaud, and Mandel and ordered that they be confined to the remote Fortress of Portalet in the Pyrenees. Judgment on the cases of Cot, La Chambre, and Jacomet was deferred.

When the new council was created observers believed that the government was using this means to avoid the embarrassment of a public trial and predicted that the Supreme Court would cease consideration of the cases of the former leaders. In announcing his decision on the recommendation of the Council of Political Justice, Petain declared, however, that the court at Riom would continue with its assigned task; he ordered it to hasten its proceedings, and he left to it the setting of a limit on the period of confinement just ordered by him for three of the accused.

5. Public Trial at Riom

The public trial of the six former French leaders, Daladier, Blum, Gamelin, La Chambre, Jacomet, and Cot, before the Supreme Court opened on February 19, 1942, and continued in four sessions each week until April 2, 1942. The proceedings during that period were divided into three successive stages: (1) objections and

decisions on legal question of the court's establishment and functions; (2) examination of the defendants; and (3) examination of witnesses. Except for one secret session to investigate the decision of Daladier's Government to honor French commitments to Poland in 1939, all the hearings were devoted to the problem of military preparations for war.

The opening session of the trial was electrified by the spectacle of Blum and Daladier, and their attorneys taking the offensive against the court and the government of Petain. Daladier denounced the trial as a German instrument, and Blum dramatically declared that the Republic and democracy were on trial and that he was proud to defend them then as in the past. Of more immediate consequence to the court were the legal attacks made on it by counsel for the defense. The government of Petain had overstepped its authority, which was merely to draft a constitution, in creating the Supreme Court, Blum's lawyer argued, and the court was, therefore, unconstitutional. Daladier's attorney declared that the law under which the accused were being tried was unconstitutional because it created a new offense and made it retroactive. They further objected that the defendants had been prejudged and condemned before the trial started. In the second session M. Ribet, Daladier's chief counsel, protested against the power of the court to forbid discussions of military operations, and with Blum himself, objected to the arbitrary fixing of June 7, 1936, the day the government of the Popular Front came into power, as the beginning

of the period to be covered by the court's investigation. The court entertained the objections presented to it. It refused, of course, to concede the contention of the defense that it was an unconstitutional body. It made no public ruling on the other points of protest, but in the subsequent sessions the testimony of witnesses was not confined strictly to the period since June 7, 1936, nor was the discussion of military operations forbidden.

The second period of the public trial was devoted to hearing the testimony of the accused. Of the six defendants only two did not testify: Pierre Cot, who was in the United States and was being tried in absentia, and General Gamelin. Gamelin announced at the opening session of the trial that as a soldier he could take no part in a political trial in which the Army might appear as the accused, and except for a few isolated sentences he steadfastly refused to speak. The other four prisoners, in contrast, spoke fully and often vigorously. Daladier, Blum, and La Chambre accepted the full responsibility for the duty of war preparations incumbent upon their offices, but they emphatically denied the charges that they had failed to fulfill their duties. They claimed that they had done everything possible to prepare France for war, but they maintained that their efforts were handicapped by the refusal of industrialists to cooperate with them and by the indecision and inaction of the High Command. Jacomet sought to minimize the importance of his post and claimed that he could not be held responsible for

the nation's unpreparedness, but he, too, denied all charges against him and denounced the obstructive tactics of industrialists and the failure of the Army to use the credits made available to it.

The third stage of the trial began on March 17 with the examination of three Army officers, and in the succeeding two weeks a number of high-ranking Army officers were called to testify. All of their testimony, although differing in detail, followed the same general pattern and revealed that the French Army went into battle lacking in modern equipment, with inadequate training, low morale, and an insufficient number of officers. The testimony was punctuated with frequent interruptions by the accused, especially from Daladier and La Chambre, who sought to refute or modify the evidence presented. On at least one occasion even Gamelin was aroused to enter a vigorous denial of a disparaging statement made by one of his former subordinates. Having heard some thirty officers the court was adjourned on April 2, and April 15 was set as the date for the resumption of sittings.

The French Government at Vichy appeared to have some misgivings about the trial even before the public sessions began, and it became increasingly concerned as the hearings in open court progressed. On February 25, 1942, only six days after the trial opened, Admiral Leahy reported that high officials at Vichy were very anxious over the effect the trial would have on the prestige of Petain. The government had apparently not anticipated the aggressive tactics of the defense,

and being unable to meet them in court, it began even at that early date, according to Leahy, to seek a means to save itself from the threat of daily attack by the former leaders it had sought to discredit. The trial became even more embarrassing when on March 15 Chancellor Hitler himself in a public speech declared in evident disgust and annoyance that the Germans could not conceive why the real question of war-guilt was not even mentioned in the trial. A few days later Fernand de Brinon, the spokesman for Germany in the French Government, recommended to Petain that the trial be dropped "as detrimental to the interests of France", and on March 30 a recess of two weeks was announced. On April 14, the day before the sittings were to be resumed, a decree published in the Official Journal suspended the hearings indefinitely and ordered the court to extend its inquiry to include the responsibility for France's entering the war as well as for the inadequate military preparations.

6. German Attitude Toward the Trial

The German attitude toward the trial varied from apparent indifference to obvious irritation at delays in the proceedings and then to open hostility. The part of Germany in instituting the trial has already been discussed in Section 1 and shown to be still a moot question. After the court had been established, the German press and the German-controlled press in France adopted an attitude of indifference, as if the trials were a matter of concern only to Frenchmen. After the preliminaries had dragged on for several months, however, without any obvious

accomplishments of the kind Germany had expected, the German press and Government revealed its interest in the trials by criticism of the delay and the demand that the proceedings be expedited. When the public sessions began and the court confined itself to the investigation of war preparations, and the conduct of the accused Republicans aroused popular sentiment in their favor, the Germans made no attempt to hide their disappointment and disapproval. Early in March the German press attacked the trials and the non-cooperative attitude they represented. The Foreign Office expressed its official displeasure on March 3, and on March 15 Hitler himself denounced as "incomprehensible" the failure of the court to take up the question of war-guilt. The announcement of the suspension of the trial almost simultaneously with the return of the pro-German Laval to the government and the concurrent extension of the inquiry to include the question of war-guilt suggests that the German Government's concern over the trial was so great that it bluntly demanded a revision of its proceedings.

7. Effects and Possible Outcome of the Trial

Aside from revealing a large amount of important information on the shortcomings of France's military preparations, the trial at Riom also had a significant influence on France's foreign relations and on foreign opinion of Marshal Petain and his government. The testimony documented an already obvious fact, namely, that France was ill-prepared for the war she undertook in 1939, and showed how the responsibility for the

poor preparation was shared by statesmen, army officers, and industrialists. The fair and unprejudiced manner in which the trial was conducted and the obvious irritation of Germany made a favorable impression in the United States, and seemed to contribute to the easing of Franco-American relations. It was felt that the course of the trial showed that Petain's Government was more than a mere puppet regime and that Germany was not succeeding in forcing a policy of collaboration on France. This very recalcitrance, of course, displeased the Germans, who interpreted it as an indication of France's complete misunderstanding of her present position and of her place in the "New Order," and it seems probable that the trial precipitated the crisis in French-German relations which resulted in the return of Laval to the government on April 14, 1942.

It is impossible to predict the ultimate outcome of the trial at Riom, but the examples of similar investigations under the Third Republic to affix responsibility suggest that it may end indecisively. The Panama Scandal, the Oustric Scandal, the Stavisky Affair, all produced great public anger and resentment, and investigations to determine and punish the guilty were undertaken in the heat and passion of the moment. The results, coming months or years later and distributing the blame widely, seemed wholly ineffectual and inadequate to the strong feelings at the outbreak of the scandals. In this case, of course, a more serious issue is

at stake, and a foreign government has the power to manage the investigation as it sees fit, but it is quite possible that the "war-guilt" trial may achieve an end similar to those cited and perhaps be forgotten under the press of more immediate and vital problems.

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